

ENTERED

August 21, 2023

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION****AZHAR CHAUDHARY LAW FIRM, PC, *et al.*,****Appellants,****VS.****HAMZAH ALI,****Appellee.**§
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§**CIVIL ACTION NO. 4:23-CV-01354****MEMORANDUM AND ORDER**

Plaintiff-Appellant Hamzah Ali (“Ali”) brought this adversary proceeding against debtor Riverstone Resort, LLC (“Debtor”) and Azhar Chaudhary Law Firm, PC (collectively “Chaudhary”) in bankruptcy court. Ali sought to obtain a declaratory judgment imposing a constructive trust against Debtor’s single asset, its real estate (the “Property”).

Immediately before this adversary action went to trial, the Bankruptcy Court dismissed the Debtor’s bankruptcy proceeding. The Court nonetheless retained jurisdiction over the adversary action between Ali and Chaudhary.

After hearing testimony and legal argument, the Court issued a 16-page Memorandum Opinion (ECF No. 138) and Judgment (ECF No. 139) holding that Ali should “take nothing” in its bid to obtain constructive trust on Debtor’s Property. The Court based its decision on the holding that Ali’s claim was barred by the applicable statute of limitations.

In the course of its Memorandum Opinion, the Court made other findings “because its findings may be useful to the parties.” ECF No. 138 at 1.


Chaudhary appeals the Memorandum Opinion and Judgment even though the Bankruptcy Court’s holding was entirely favorable to Chaudhary. In the course of oral argument in this Court, counsel for Chaudhary made it clear that relief was sought not from Bankruptcy Court’s holding, but from other aspects of the Memorandum Opinion that were unfavorable to Chaudhary.

Reviewing the Bankruptcy Court’s Memorandum Opinion however, this Court concludes that the opinion simply sought to memorialize its rulings on issues that would be salient if an appellate court were to disagree about the statute of limitations bar. The Bankruptcy Court’s findings and conclusions may be considered dicta at present, but depending on the appeals process, may be considered law of the case.

There is no reason to disturb the findings and conclusions of the Bankruptcy Court. The Bankruptcy Court’s decision is **AFFIRMED**. The appeal is **DISMISSED**. All pending motions are **DENIED** as moot.

IT IS SO ORDERED.

SIGNED at Houston, Texas on this the 21st day of August, 2023.

A handwritten signature in black ink, appearing to read "Keith P. Ellison", written over a horizontal line.

Keith P. Ellison
United States District Judge